

## REMARKS

This is intended as a full and complete response to the Office Action dated June 13, 2007, having a shortened statutory period for response set to expire on September 13, 2007. Applicants submit this response to place the application in condition for allowance or in better form for appeal.

Claims 1, 3, 6, 8-9 and 11 remain pending in the application and are shown above. Reconsideration of the rejected claims is requested for reasons presented below.

### ***Claim Rejections - 35 U.S.C. § 102***

Claims 1, 3, 6 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by *Chan et al.* (U.S. Patent No. 6,194,120, hereinafter, "*Chan*"). Applicants respectfully traverse this rejection.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the...claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Further, the elements must be arranged as required by the claim. *In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990).

In this case, with respect to claim 1, *Chan* does not disclose "each and every element as set forth in the claim." For example, *Chan* does not disclose "wherein a refractive index of the layer changes in response to a change in the measurand," as recited in previously presented claim 1. The Examiners claims *Chan* column 25, line 65 through column 26, line 43 teaches the previously mentioned element. However, *Chan* does not teach this element. *Chan* teaches:

"The electro-optical polymeric material 80 has a refractive index " $r_0$ " which is greater than the refractive index " $r$ " of the photochromic polymeric material 70 on either of its sides."

*Chan* does not teach that either of the refractive indices change at any point in time. Further, *Chan* is silent with respect to a measurand, and as such he is also silent with respect to a dependency between the changing refractive index and the measurand, as recited in claim 1.

Therefore, claim 1 and its dependents are believed to be allowable, and withdrawal of this rejection is respectfully requested. Further, claim 8 and its dependents contain limitations similar to claim 1. Accordingly, Applicants submits these claims are also allowable for at least the same reason and respectfully requests withdrawal of this rejection.

### ***Claim Rejections - 35 U.S.C. § 103***

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Chan* in view of *Bergh* (U.S. Patent No. 4,386,822). Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over *Chan* in view of *Bailey et al.* (U.S. Publication 2002/0197037, hereinafter, "*Bailey*"). Applicants respectfully traverse these rejections.

Claims 9 and 11 are dependent on claim 8 which Applicants submit is allowable for the reason discussed above. Accordingly, Applicants submit that claims 9 and 11 are allowable and respectfully request withdrawal of these rejections.

### Conclusion

The references cited by the Examiner, alone or in combination, do not teach, show or suggest the invention as claimed. Having addressed all issues set out in the office action, Applicants respectfully submit that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted, and  
**S-signed pursuant to 37 C.F.R. 1.4,**

/Randol W. Read, Reg. No. 43,876/

Randol W. Read

Registration No. 43,876

PATTERSON & SHERIDAN, L.L.P.

3040 Post Oak Blvd. Suite 1500

Houston, TX 77056

Telephone: (713) 623-4844

Facsimile: (713) 623-4846

Attorney for Applicants